

United States District Court
for The middle District of Pennsylvania

OCT 29 2004

MARY E. D'ANDREA, CLERK
Per _____
Deputy Clerk

WM. Branch
vs. Plaintiff

Civil Action No. 1:00-cv-1728

Judge Conner

Fourth Brief to Deny motion
For Summary Judgement

if it Pleases the Court Here comes ignoble inmate
William Branch CE-3756 from S.Ci. Waymart asking this Noble
Court to deny Defendants Summary Judgement.

1.) Defendants in their motion for summary Judgement
concede that I have satisfied two PRongs established
in Rausser vs. Horn 241 F.3d 330 (3rd CIR. 2001) [the
controlling case in the third CIR.] and that I must show
a causal link!

To this end I cite another (3rd CIR case)
Mitchell vs. Horn 318 F.3d 523 (3rd CIR. 2003) citing at 530
Rausser vs. Horn A prisoner alleging Retaliation must
show (1) constitutionally protected conduct (2) and adverse
action by prison officials "sufficient to deter a person
of ordinary firmness from exercising his [constitutional]
Rights," and (3) "a causal link between the Exercise of
his constitutional Rights and the adverse action taken
against him". Rausser (quoting Allah, 229 F.3d at 225)
(alteration in original).

Mitchell vs. Horn 318 F.3d at 530 [12] w/s on to state

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Page ② Fourth Brief to deny Summary Judgement

(Prisoner could survive Summary Judgement on his claim that prison officials Retaliated against him for "use of the 'inmate grievance system' and previous Law Suits"). more over we believe that several months in disciplinary confinement would deter a ~~person of~~ Reasonably firm prisoner from exercising his first amendment Rights.

Finally we agree with mitchell that the word "Retaliation" in his complaint sufficiently implies a causal link between his complaint and the misconduct charges filed against him! This covers the third prong of my complaint that the staff conspired ^{to} punish me for accessing the courts your Honor I also wish to cite [10,11] of Mitchell stating that "[g]overnment actions which standing alone do not violate the constitution, may ~~not be~~ none the less be constitutional torts if motivated in substantial part by a desire to punish a individual for exercise of a constitutional right." Allan v. Seaverling, 229 F3d 220, 224-25 (3rd Cir. 2000) (quoting Thaddeus-X vs Blatter 175 F3d 378, 386 (6th Cir. 1999) (en banc))

For these Reason I pray that your Honor will deny Defendants motion for Summary Judgement.

Proof of Service

S.D.A.G. Ms Mosley ~~eq.~~ 15th fl Strawberry Sq Harrisburg Pa 17120

Unsworn Declaration

I affirm under Penalty of the Law that the above is true.

Date 10-25-04

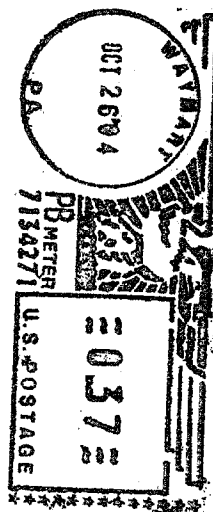
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